

Amdt. dated May 3, 2004
Reply to Office action of 09/09/2003

Serial No. 09/670,736
Docket No. POU920000103US1
Firm No. 0066.0080

REMARKS/ARGUMENTS

The Examiner has rejected claims 1, 2, 4, 5, 9, 10, 12, 13, 17, 18, 20 and 21 under 35 U.S.C. 102(e) as being unpatentable over Kelley (US 6,542,469). The Examiner has also rejected claims 6, 14, and 22 under 35 U.S.C. 103(a) as being unpatentable over Kelley in view of Spagnolo (US 6,526,024). The Examiner has further rejected claims 7, 15, and 23 under 35 U.S.C. 103(a) as being unpatentable over Kelley in view of Burton (US 6,393,535).

The Examiner has allowed claims 8, 16, and 24 and indicated that objected claims 3, 11, 19 and 25-27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten objected claims 3, 11, 19 and 25-27 in independent form including all of the limitations of the base claim and any intervening claims.

Applicants traverse the claim rejections.

Claim Objections

Claims 3, 11, 19, 25-27

The Examiner has indicated that objected claims 3, 11, 19 and 25-27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten objected claims 3, 11, 19 and 25-27 in independent form including all of the limitations of the base claim and any intervening claims. Therefore, claims 3, 11, 19, 25-27 are in a condition for allowance.

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Claim Rejections under 35 U.S.C. 102(e)

Claims 1, 9, and 17

Claims 1, 9, and 17 are a method, system, and article of manufacture for selecting one of multiple proposed paths to a device, comprising:

for each proposed path, determining a number of components the proposed path shares with existing paths to the device, wherein the components comprise points of failure such that if one component fails then the paths including the component fails; and

using the determined number of shared components for each proposed path to select one proposed path.

The Examiner has rejected claims 1, 9, and 17 under 35 U.S.C. 102(e) as being unpatentable over Kelley. Applicants traverse.

The cited Kelley (column 2: lines 52-65) discusses determining maximally disjoint pair of paths to each selected destination in a network, wherein maximally disjoint paths are paths where the number of links or nodes common to the two paths is minimized. The cited Kelley discusses providing a priority to minimizing the number of links or nodes common to the two paths over other path considerations, such as, bandwidth or cost metrics. Therefore, the cited Kelley discusses determining a pair of paths where the number of links or nodes common to the pair of paths is minimized.

The claims require selecting one path, wherein the one path is selected by determining the number of components the one path shares with existing paths to a device. The cited Kelley discusses determines maximally disjoint pair of paths, i.e., the cited Kelley discusses determining the number of components one path of a pair of paths shares with the other path of the pair of paths. The claims require determining the number of components the proposed path shares with existing paths to the device, whereas the cited Kelley discusses determining the number of components a path shares with only one other path to the device. Since there are two paths in a path pair, the cited Kelly discusses determining the number of components one path of a path

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pair shares with the other path of the path pair, whereas the claims require determining the number of components one path shares with existing paths (i.e., more than one path) to a device. Therefore, nowhere does the cited Kelley teach or disclose the claim requirement of determining a number of components the proposed path shares with existing paths to the device and using the determined number of shared components to select one proposed path.

Additionally, the cited Kelly discusses providing a priority to minimizing the number of links or nodes common to the two paths over other path considerations, such as, bandwidth or cost metrics. The cited Kelly (Kelly - Abstract: lines 15-16; col. 3: lines 2-4) discusses that a third path from each node to each other node may also be computed as a function of bandwidth or a cost metric. Therefore, in the cited Kelly if there is a third path beyond the pair of paths, the third path is computed not by determining the number of shared paths but via some other criteria, such as bandwidth or cost metric. Therefore, even though the cited Kelley may discuss more than two paths, the third path is not related to shared paths. Therefore, the cited Kelly discusses determining the number of components one path of a path pair shares with the other path of the path pair, whereas the claims require determining the number of components one path shares with existing paths (i.e., more than one path) to a device. Therefore, nowhere does the cited Kelley teach or disclose the claim requirement of determining a number of components the proposed path shares with existing paths to the device and using the determined number of shared components to select one proposed path.

For the above reasons, claims 1, 9, and 17 are patentable over the cited art.

Claims 2, 4-7, 10, 12-15, 18, 20-23

The Examiner has also rejected pending claims 2, 4-7, 10, 12-15, 18, 20-23 that depend on the pending independent claims 1, 9, and 17 respectively that the applicants submit as patentable. Accordingly claims 2, 4-7, 10, 12-15, 18, 20-23 provide additional grounds of patentability over the cited art.

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Conclusion

For all the above reasons, Applicant submits that the pending claims 1-27 are patentable over the art of record. Applicants have indicated appropriate fees to be charged. However, should any additional fees be required, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact him at (310) 557-2292 if the Examiner believes such contact would advance the prosecution of the case.

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